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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,899	01/16/2002	Erik Paiste	272318.00010	5833

7590 12/31/2003

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EXAMINER

TRAN, KHOA H

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,899

Applicant(s)

PAISTE ET AL.

Examiner

Khoa Tran

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-9 and 12 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/16/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

Art Unit: 3634

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the cymbal removably positioned intermediate the upper and lower felts" in claim 1 must be shown or the features canceled from the claim. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2-8, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 1 and 11, it's unclear whether a combination or subcombination is being claimed because the preamble sets forth the musical cymbal as an intended use while the body of the claim positively recites the musical cymbal in combination with the display apparatus. With respect to claim 2 it's unclear whether a combination or subcombination is being claimed because the claim positively includes the wall as a part of claim invention on line 3 while the preamble of the claim merely defines the wall as an intended use with the apparatus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone in view of Hutchison and Carlino. Stone discloses an apparatus that meets all limitations of the claims (see Figure 1) except for the base plate (68) of Stone is not mountable to a slat wall and the base plate does not have a lock bar to interconnect therein a channel. However, Hutchison teaches a base plate (52) that is mountable to a slat wall (see Figure 4). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base plate of Stone with the provision of a base plate as taught by Hutchison in order to enable the apparatus of Stone to be mounted from a slat wall. Carlino teaches a base plate having a screw and a lock bar (30) mounted behind the plate, wherein the lock bar is functionally and selectively locked the arm between a channel. See Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base plate of Stone in view of Hutchison with the provision of a screw and a lock bar as taught by Carlino in order to enable to secure the base plate between a channel and prevent the base plate from accidental dislodgement.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone in view of Hutchison and Carlino as applied to claims 2 and 5-8 above, and

further in view of Hoshino. Hoshino teaches a notoriously old and well-known tilter mechanism (10) having two opposed gears that faced (26 and 41) each other. See Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the tilter mechanism of Stone in view of Hutchison and Carlino with the provision of a tilter mechanism as taught by Hoshino in order to have a tilter mechanism that has gears and take play in pivoting the arm thus produce no unexpected result

Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diaz in view of Hutchison and Carlino. Diaz discloses a musical support system (7) that meets all limitations of the claims (see Figure 6) except for the base plate (74) of Diaz is not mountable to a slat wall and the base plate does not have a lock bar to interconnect therein a channel. However, Hutchison teaches a base plate (52) that is mountable to a slat wall (see Figure 4). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base plate of Diaz with the provision of a base plate as taught by Hutchison in order to enable the musical support system of Diaz to be mounted from a slat wall. Carlino teaches a base plate having a screw and a lock bar (30) mounted behind the plate, wherein the lock bar is functionally and selectively locked the arm between a channel. See Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base plate of Diaz in view of Hutchison with the provision of a screw and a lock bar as taught by Carlino in order to enable to secure the base plate between a channel and prevent the base plate from accidental dislodgement.

Allowable Subject Matter

Claim 1 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is an examiner's statement of reasons for allowance:

Claim 1 is allowed over the prior art of record because none of the prior art of record teaches or suggests a display cymbal apparatus having a display assembly of a base portion interconnected with a panel and adapted to receive a product literature and interconnected to the upper felt, see lines 20-22.

Response to Arguments

Applicants' arguments with respect to claims 2-4, 6-9 and 12 have been considered but are moot in view of the new grounds of rejection.

The new grounds of rejection were necessitated by applicants' amendment, e.g., the positive inclusion of "the wall" or "a slat wall" recited in claims 2 and 9, line 3.

Applicants' amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group before a final Office action is (703) 872-9326 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Khoa Tran
December 13, 2003

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looped initial "D".

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600